

COMMITTEE ON HOMELAND SECURITY AND PROPERTY RIGHTS

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2261

(Reference to printed bill)

Strike everything after the enacting clause and insert:

"Section 1. Title 15, chapter 13, article 4, Arizona Revised Statutes, is amended by adding section 15-1671, to read:

15-1671. University life-safety, building renewal and deferred maintenance funding

BEGINNING IN FISCAL YEAR 2008-2009, UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS SHALL USE THE BUDGETARY SAVINGS REALIZED FROM THE FOLLOWING TRANSACTION PRIVILEGE AND USE TAX PROVISIONS TO PAY THE COST OF, OR THE DEBT SERVICE OR LEASE-PURCHASE PAYMENTS BY THE UNIVERSITY FOR, LIFE-SAFETY, BUILDING RENEWAL OR DEFERRED MAINTENANCE CAPITAL PROJECTS:

1. SECTION 42-5061, SUBSECTION A, PARAGRAPH 25, SUBDIVISION (g), RELATING TO RETAIL TRANSACTIONS.

2. SECTION 42-5063, SUBSECTION C, PARAGRAPH 3, SUBDIVISION (c), RELATING TO UTILITIES.

3. SECTION 42-5064, SUBSECTION B, PARAGRAPH 6, RELATING TO TELECOMMUNICATIONS.

4. SECTION 42-5066, SUBSECTION B, PARAGRAPH 6, RELATING TO JOB PRINTING.

5. SECTION 42-5075, SUBSECTION B, PARAGRAPH 22, RELATING TO PRIME CONTRACTS.

6. SECTION 42-5159, SUBSECTION A, PARAGRAPH 13, SUBDIVISION (m), RELATING TO USE TAX.

Sec. 2. Section 42-5061, Arizona Revised Statutes, is amended to read:

42-5061. Retail classification; definitions

A. The retail classification is comprised of the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from

1 the business. The tax imposed on the retail classification does not apply to
2 the gross proceeds of sales or gross income from:

3 1. Professional or personal service occupations or businesses which
4 involve sales or transfers of tangible personal property only as
5 inconsequential elements.

6 2. Services rendered in addition to selling tangible personal property
7 at retail.

8 3. Sales of warranty or service contracts. The storage, use or
9 consumption of tangible personal property provided under the conditions of
10 such contracts is subject to tax under section 42-5156.

11 4. Sales of tangible personal property by any nonprofit organization
12 organized and operated exclusively for charitable purposes and recognized by
13 the United States internal revenue service under section 501(c)(3) of the
14 internal revenue code.

15 5. Sales to persons engaged in business classified under the
16 restaurant classification of articles used by human beings for food, drink or
17 condiment, whether simple, mixed or compounded.

18 6. Business activity which is properly included in any other business
19 classification which is taxable under article 1 of this chapter.

20 7. The sale of stocks and bonds.

21 8. Drugs and medical oxygen, including delivery hose, mask or tent,
22 regulator and tank, on the prescription of a member of the medical, dental or
23 veterinarian profession who is licensed by law to administer such substances.

24 9. Prosthetic appliances as defined in section 23-501 prescribed or
25 recommended by a health professional licensed pursuant to title 32, chapter
26 7, 8, 11, 13, 14, 15, 16, 17 or 29.

27 10. Insulin, insulin syringes and glucose test strips.

28 11. Prescription eyeglasses or contact lenses.

29 12. Hearing aids as defined in section 36-1901.

30 13. Durable medical equipment which has a centers for medicare and
31 medicaid services common procedure code, is designated reimbursable by
32 medicare, is prescribed by a person who is licensed under title 32, chapter

1 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
2 customarily used to serve a medical purpose, is generally not useful to a
3 person in the absence of illness or injury and is appropriate for use in the
4 home.

5 14. Sales to nonresidents of this state for use outside this state if
6 the vendor ships or delivers the tangible personal property out of this
7 state.

8 15. Food, as provided in and subject to the conditions of article 3 of
9 this chapter and section 42-5074.

10 16. Items purchased with United States department of agriculture food
11 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
12 958) or food instruments issued under section 17 of the child nutrition act
13 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
14 section 1786).

15 17. Textbooks by any bookstore that are required by any state
16 university or community college.

17 18. Food and drink to a person who is engaged in business which is
18 classified under the restaurant classification and which provides such food
19 and drink without monetary charge to its employees for their own consumption
20 on the premises during the employees' hours of employment.

21 19. Articles of food, drink or condiment and accessory tangible
22 personal property to a school district if such articles and accessory
23 tangible personal property are to be prepared and served to persons for
24 consumption on the premises of a public school within the district during
25 school hours.

26 20. Lottery tickets or shares pursuant to title 5, chapter 5,
27 article 1.

28 21. The sale of precious metal bullion and monetized bullion to the
29 ultimate consumer, but the sale of coins or other forms of money for
30 manufacture into jewelry or works of art is subject to the tax. For the
31 purposes of this paragraph:

1 (a) "Monetized bullion" means coins and other forms of money which are
2 manufactured from gold, silver or other metals and which have been or are
3 used as a medium of exchange in this or another state, the United States or a
4 foreign nation.

5 (b) "Precious metal bullion" means precious metal, including gold,
6 silver, platinum, rhodium and palladium, which has been smelted or refined so
7 that its value depends on its contents and not on its form.

8 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
9 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
10 valid single trip use fuel tax permit issued under section 28-5739, sales of
11 aviation fuel which are subject to the tax imposed under section 28-8344 and
12 sales of jet fuel which are subject to the tax imposed under article 8 of
13 this chapter.

14 23. Tangible personal property sold to a person engaged in the business
15 of leasing or renting such property under the personal property rental
16 classification if such property is to be leased or rented by such person.

17 24. Tangible personal property sold in interstate or foreign commerce
18 if prohibited from being so taxed by the Constitution of the United States or
19 the constitution of this state.

20 25. Tangible personal property sold to:

21 (a) A qualifying hospital as defined in section 42-5001.

22 (b) A qualifying health care organization as defined in section
23 42-5001 if the tangible personal property is used by the organization solely
24 to provide health and medical related educational and charitable services.

25 (c) A qualifying health care organization as defined in section
26 42-5001 if the organization is dedicated to providing educational,
27 therapeutic, rehabilitative and family medical education training for blind,
28 visually impaired and multihandicapped children from the time of birth to age
29 twenty-one.

30 (d) A qualifying community health center as defined in section
31 42-5001.

1 (e) A nonprofit charitable organization that has qualified under
2 section 501(c)(3) of the internal revenue code and that regularly serves
3 meals to the needy and indigent on a continuing basis at no cost.

4 (f) For taxable periods beginning from and after June 30, 2001, a
5 nonprofit charitable organization that has qualified under section 501(c)(3)
6 of the internal revenue code and that provides residential apartment housing
7 for low income persons over sixty-two years of age in a facility that
8 qualifies for a federal housing subsidy, if the tangible personal property is
9 used by the organization solely to provide residential apartment housing for
10 low income persons over sixty-two years of age in a facility that qualifies
11 for a federal housing subsidy.

12 (g) A STATE UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
13 REGENTS.

14 26. Magazines or other periodicals or other publications by this state
15 to encourage tourist travel.

16 27. Tangible personal property sold to a person that is subject to tax
17 under this article by reason of being engaged in business classified under
18 the prime contracting classification under section 42-5075, or to a
19 subcontractor working under the control of a prime contractor that is subject
20 to tax under article 1 of this chapter, if the property so sold is any of the
21 following:

22 (a) Incorporated or fabricated by the person into any real property,
23 structure, project, development or improvement as part of the business.

24 (b) Used in environmental response or remediation activities under
25 section 42-5075, subsection B, paragraph 6.

26 (c) Incorporated or fabricated by the person into any lake facility
27 development in a commercial enhancement reuse district under conditions
28 prescribed for the deduction allowed by section 42-5075, subsection B,
29 paragraph 8.

30 28. The sale of a motor vehicle to:

31 (a) A nonresident of this state if the purchaser's state of residence
32 does not allow a corresponding use tax exemption to the tax imposed by

1 article 1 of this chapter and if the nonresident has secured a special ninety
2 day nonresident registration permit for the vehicle as prescribed by sections
3 28-2154 and 28-2154.01.

4 (b) An enrolled member of an Indian tribe who resides on the Indian
5 reservation established for that tribe.

6 29. Tangible personal property purchased in this state by a nonprofit
7 charitable organization that has qualified under section 501(c)(3) of the
8 United States internal revenue code and that engages in and uses such
9 property exclusively in programs for mentally or physically handicapped
10 persons if the programs are exclusively for training, job placement,
11 rehabilitation or testing.

12 30. Sales of tangible personal property by a nonprofit organization
13 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
14 of the internal revenue code if the organization is associated with a major
15 league baseball team or a national touring professional golfing association
16 and no part of the organization's net earnings inures to the benefit of any
17 private shareholder or individual.

18 31. Sales of commodities, as defined by title 7 United States Code
19 section 2, that are consigned for resale in a warehouse in this state in or
20 from which the commodity is deliverable on a contract for future delivery
21 subject to the rules of a commodity market regulated by the United States
22 commodity futures trading commission.

23 32. Sales of tangible personal property by a nonprofit organization
24 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
25 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
26 sponsors or operates a rodeo featuring primarily farm and ranch animals and
27 no part of the organization's net earnings inures to the benefit of any
28 private shareholder or individual.

29 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
30 propagative material to persons who use those items to commercially produce
31 agricultural, horticultural, viticultural or floricultural crops in this
32 state.

1 34. Machinery, equipment, technology or related supplies that are only
2 useful to assist a person who is physically disabled as defined in section
3 46-191, has a developmental disability as defined in section 36-551 or has a
4 head injury as defined in section 41-3201 to be more independent and
5 functional.

6 35. Sales of tangible personal property that is shipped or delivered
7 directly to a destination outside the United States for use in that foreign
8 country.

9 36. Sales of natural gas or liquefied petroleum gas used to propel a
10 motor vehicle.

11 37. Paper machine clothing, such as forming fabrics and dryer felts,
12 sold to a paper manufacturer and directly used or consumed in paper
13 manufacturing.

14 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
15 sold to a qualified environmental technology manufacturer, producer or
16 processor as defined in section 41-1514.02 and directly used or consumed in
17 the generation or provision of on-site power or energy solely for
18 environmental technology manufacturing, producing or processing or
19 environmental protection. This paragraph shall apply for fifteen full
20 consecutive calendar or fiscal years from the date the first paper
21 manufacturing machine is placed in service. In the case of an environmental
22 technology manufacturer, producer or processor who does not manufacture
23 paper, the time period shall begin with the date the first manufacturing,
24 processing or production equipment is placed in service.

25 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
26 processing, fabricating, mining, refining, metallurgical operations, research
27 and development and, beginning on January 1, 1999, printing, if using or
28 consuming the chemicals, alone or as part of an integrated system of
29 chemicals, involves direct contact with the materials from which the product
30 is produced for the purpose of causing or permitting a chemical or physical
31 change to occur in the materials as part of the production process. This
32 paragraph does not include chemicals that are used or consumed in activities

1 such as packaging, storage or transportation but does not affect any
2 deduction for such chemicals that is otherwise provided by this section. For
3 the purposes of this paragraph, "printing" means a commercial printing
4 operation and includes job printing, engraving, embossing, copying and
5 bookbinding.

6 40. Through December 31, 1994, personal property liquidation
7 transactions, conducted by a personal property liquidator. From and after
8 December 31, 1994, personal property liquidation transactions shall be
9 taxable under this section provided that nothing in this subsection shall be
10 construed to authorize the taxation of casual activities or transactions
11 under this chapter. For the purposes of this paragraph:

12 (a) "Personal property liquidation transaction" means a sale of
13 personal property made by a personal property liquidator acting solely on
14 behalf of the owner of the personal property sold at the dwelling of the
15 owner or upon the death of any owner, on behalf of the surviving spouse, if
16 any, any devisee or heir or the personal representative of the estate of the
17 deceased, if one has been appointed.

18 (b) "Personal property liquidator" means a person who is retained to
19 conduct a sale in a personal property liquidation transaction.

20 41. Sales of food, drink and condiment for consumption within the
21 premises of any prison, jail or other institution under the jurisdiction of
22 the state department of corrections, the department of public safety, the
23 department of juvenile corrections or a county sheriff.

24 42. A motor vehicle and any repair and replacement parts and tangible
25 personal property becoming a part of such motor vehicle sold to a motor
26 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
27 and who is engaged in the business of leasing or renting such property.

28 43. Livestock and poultry feed, salts, vitamins and other additives for
29 livestock or poultry consumption that are sold to persons who are engaged in
30 producing livestock, poultry, or livestock or poultry products or who are
31 engaged in feeding livestock or poultry commercially. For the purposes of
32 this paragraph, "poultry" includes ratites.

1 44. Sales of implants used as growth promotants and injectable
2 medicines, not already exempt under paragraph 8 of this subsection, for
3 livestock or poultry owned by or in possession of persons who are engaged in
4 producing livestock, poultry, or livestock or poultry products or who are
5 engaged in feeding livestock or poultry commercially. For the purposes of
6 this paragraph, "poultry" includes ratites.

7 45. Sales of motor vehicles at auction to nonresidents of this state
8 for use outside this state if the vehicles are shipped or delivered out of
9 this state, regardless of where title to the motor vehicles passes or its
10 free on board point.

11 46. Tangible personal property sold to a person engaged in business and
12 subject to tax under the transient lodging classification if the tangible
13 personal property is a personal hygiene item or articles used by human beings
14 for food, drink or condiment, except alcoholic beverages, which are furnished
15 without additional charge to and intended to be consumed by the transient
16 during the transient's occupancy.

17 47. Sales of alternative fuel, as defined in section 1-215, to a used
18 oil fuel burner who has received a permit to burn used oil or used oil fuel
19 under section 49-426 or 49-480.

20 48. Sales of materials that are purchased by or for publicly funded
21 libraries including school district libraries, charter school libraries,
22 community college libraries, state university libraries or federal, state,
23 county or municipal libraries for use by the public as follows:

24 (a) Printed or photographic materials, beginning August 7, 1985.

25 (b) Electronic or digital media materials, beginning July 17, 1994.

26 49. Tangible personal property sold to a commercial airline and
27 consisting of food, beverages and condiments and accessories used for serving
28 the food and beverages, if those items are to be provided without additional
29 charge to passengers for consumption in flight. For the purposes of this
30 paragraph, "commercial airline" means a person holding a federal certificate
31 of public convenience and necessity or foreign air carrier permit for air

1 transportation to transport persons, property or United States mail in
2 intrastate, interstate or foreign commerce.

3 50. Sales of alternative fuel vehicles if the vehicle was manufactured
4 as a diesel fuel vehicle and converted to operate on alternative fuel and
5 equipment that is installed in a conventional diesel fuel motor vehicle to
6 convert the vehicle to operate on an alternative fuel, as defined in section
7 1-215.

8 51. Sales of any spirituous, vinous or malt liquor by a person that is
9 licensed in this state as a wholesaler by the department of liquor licenses
10 and control pursuant to title 4, chapter 2, article 1.

11 52. Sales of tangible personal property to be incorporated or installed
12 as part of environmental response or remediation activities under section
13 42-5075, subsection B, paragraph 6.

14 53. Sales of tangible personal property by a nonprofit organization
15 that is exempt from taxation under section 501(c)(6) of the internal revenue
16 code if the organization produces, organizes or promotes cultural or civic
17 related festivals or events and no part of the organization's net earnings
18 inures to the benefit of any private shareholder or individual.

19 54. Through August 31, 2014, sales of Arizona centennial medallions by
20 the historical advisory commission.

21 B. In addition to the deductions from the tax base prescribed by
22 subsection A of this section, the gross proceeds of sales or gross income
23 derived from sales of the following categories of tangible personal property
24 shall be deducted from the tax base:

25 1. Machinery, or equipment, used directly in manufacturing,
26 processing, fabricating, job printing, refining or metallurgical operations.
27 The terms "manufacturing", "processing", "fabricating", "job printing",
28 "refining" and "metallurgical" as used in this paragraph refer to and include
29 those operations commonly understood within their ordinary meaning.
30 "Metallurgical operations" includes leaching, milling, precipitating,
31 smelting and refining.

1 2. Mining machinery, or equipment, used directly in the process of
2 extracting ores or minerals from the earth for commercial purposes, including
3 equipment required to prepare the materials for extraction and handling,
4 loading or transporting such extracted material to the surface. "Mining"
5 includes underground, surface and open pit operations for extracting ores and
6 minerals.

7 3. Tangible personal property sold to persons engaged in business
8 classified under the telecommunications classification and consisting of
9 central office switching equipment, switchboards, private branch exchange
10 equipment, microwave radio equipment and carrier equipment including optical
11 fiber, coaxial cable and other transmission media which are components of
12 carrier systems.

13 4. Machinery, equipment or transmission lines used directly in
14 producing or transmitting electrical power, but not including distribution.
15 Transformers and control equipment used at transmission substation sites
16 constitute equipment used in producing or transmitting electrical power.

17 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
18 to be used as breeding or production stock, including sales of breedings or
19 ownership shares in such animals used for breeding or production.

20 6. Pipes or valves four inches in diameter or larger used to transport
21 oil, natural gas, artificial gas, water or coal slurry, including compressor
22 units, regulators, machinery and equipment, fittings, seals and any other
23 part that is used in operating the pipes or valves.

24 7. Aircraft, navigational and communication instruments and other
25 accessories and related equipment sold to:

26 (a) A person holding a federal certificate of public convenience and
27 necessity, a supplemental air carrier certificate under federal aviation
28 regulations (14 Code of Federal Regulations part 121) or a foreign air
29 carrier permit for air transportation for use as or in conjunction with or
30 becoming a part of aircraft to be used to transport persons, property or
31 United States mail in intrastate, interstate or foreign commerce.

1 (b) Any foreign government for use by such government outside of this
2 state.

3 (c) Persons who are not residents of this state and who will not use
4 such property in this state other than in removing such property from this
5 state. This subdivision also applies to corporations that are not
6 incorporated in this state, regardless of maintaining a place of business in
7 this state, if the principal corporate office is located outside this state
8 and the property will not be used in this state other than in removing the
9 property from this state.

10 8. Machinery, tools, equipment and related supplies used or consumed
11 directly in repairing, remodeling or maintaining aircraft, aircraft engines
12 or aircraft component parts by or on behalf of a certificated or licensed
13 carrier of persons or property.

14 9. Railroad rolling stock, rails, ties and signal control equipment
15 used directly to transport persons or property.

16 10. Machinery or equipment used directly to drill for oil or gas or
17 used directly in the process of extracting oil or gas from the earth for
18 commercial purposes.

19 11. Buses or other urban mass transit vehicles which are used directly
20 to transport persons or property for hire or pursuant to a governmentally
21 adopted and controlled urban mass transportation program and which are sold
22 to bus companies holding a federal certificate of convenience and necessity
23 or operated by any city, town or other governmental entity or by any person
24 contracting with such governmental entity as part of a governmentally adopted
25 and controlled program to provide urban mass transportation.

26 12. Groundwater measuring devices required under section 45-604.

27 13. New machinery and equipment consisting of tractors, tractor-drawn
28 implements, self-powered implements, machinery and equipment necessary for
29 extracting milk, and machinery and equipment necessary for cooling milk and
30 livestock, and drip irrigation lines not already exempt under paragraph 6 of
31 this subsection and that are used for commercial production of agricultural,

1 horticultural, viticultural and floricultural crops and products in this
2 state. For the purposes of this paragraph:

3 (a) "New machinery and equipment" means machinery and equipment which
4 have never been sold at retail except pursuant to leases or rentals which do
5 not total two years or more.

6 (b) "Self-powered implements" includes machinery and equipment that
7 are electric-powered.

8 14. Machinery or equipment used in research and development. For the
9 purposes of this paragraph, "research and development" means basic and
10 applied research in the sciences and engineering, and designing, developing
11 or testing prototypes, processes or new products, including research and
12 development of computer software that is embedded in or an integral part of
13 the prototype or new product or that is required for machinery or equipment
14 otherwise exempt under this section to function effectively. Research and
15 development do not include manufacturing quality control, routine consumer
16 product testing, market research, sales promotion, sales service, research in
17 social sciences or psychology, computer software research that is not
18 included in the definition of research and development, or other
19 nontechnological activities or technical services.

20 15. Machinery and equipment that are purchased by or on behalf of the
21 owners of a soundstage complex and primarily used for motion picture,
22 multimedia or interactive video production in the complex. This paragraph
23 applies only if the initial construction of the soundstage complex begins
24 after June 30, 1996 and before January 1, 2002 and the machinery and
25 equipment are purchased before the expiration of five years after the start
26 of initial construction. For the purposes of this paragraph:

27 (a) "Motion picture, multimedia or interactive video production"
28 includes products for theatrical and television release, educational
29 presentations, electronic retailing, documentaries, music videos, industrial
30 films, CD-ROM, video game production, commercial advertising and television
31 episode production and other genres that are introduced through developing
32 technology.

1 (b) "Soundstage complex" means a facility of multiple stages including
2 production offices, construction shops and related areas, prop and costume
3 shops, storage areas, parking for production vehicles and areas that are
4 leased to businesses that complement the production needs and orientation of
5 the overall facility.

6 16. Tangible personal property that is used by either of the following
7 to receive, store, convert, produce, generate, decode, encode, control or
8 transmit telecommunications information:

9 (a) Any direct broadcast satellite television or data transmission
10 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
11 100.

12 (b) Any satellite television or data transmission facility, if both of
13 the following conditions are met:

14 (i) Over two-thirds of the transmissions, measured in megabytes,
15 transmitted by the facility during the test period were transmitted to or on
16 behalf of one or more direct broadcast satellite television or data
17 transmission services that operate pursuant to 47 Code of Federal Regulations
18 parts 25 and 100.

19 (ii) Over two-thirds of the transmissions, measured in megabytes,
20 transmitted by or on behalf of those direct broadcast television or data
21 transmission services during the test period were transmitted by the facility
22 to or on behalf of those services.

23 For the purposes of subdivision (b) of this paragraph, "test period" means
24 the three hundred sixty-five day period beginning on the later of the date on
25 which the tangible personal property is purchased or the date on which the
26 direct broadcast satellite television or data transmission service first
27 transmits information to its customers.

28 17. Clean rooms that are used for manufacturing, processing,
29 fabrication or research and development, as defined in paragraph 14 of this
30 subsection, of semiconductor products. For the purposes of this paragraph,
31 "clean room" means all property that comprises or creates an environment
32 where humidity, temperature, particulate matter and contamination are

1 precisely controlled within specified parameters, without regard to whether
2 the property is actually contained within that environment or whether any of
3 the property is affixed to or incorporated into real property. Clean room:

4 (a) Includes the integrated systems, fixtures, piping, movable
5 partitions, lighting and all property that is necessary or adapted to reduce
6 contamination or to control airflow, temperature, humidity, chemical purity
7 or other environmental conditions or manufacturing tolerances, as well as the
8 production machinery and equipment operating in conjunction with the clean
9 room environment.

10 (b) Does not include the building or other permanent, nonremovable
11 component of the building that houses the clean room environment.

12 18. Machinery and equipment used directly in the feeding of poultry,
13 the environmental control of housing for poultry, the movement of eggs within
14 a production and packaging facility or the sorting or cooling of eggs. This
15 exemption does not apply to vehicles used for transporting eggs.

16 19. Machinery or equipment, including related structural components,
17 that is employed in connection with manufacturing, processing, fabricating,
18 job printing, refining, mining, natural gas pipelines, metallurgical
19 operations, telecommunications, producing or transmitting electricity or
20 research and development and that is used directly to meet or exceed rules or
21 regulations adopted by the federal energy regulatory commission, the United
22 States environmental protection agency, the United States nuclear regulatory
23 commission, the Arizona department of environmental quality or a political
24 subdivision of this state to prevent, monitor, control or reduce land, water
25 or air pollution.

26 20. Machinery and equipment that are sold to a person engaged in the
27 commercial production of livestock, livestock products or agricultural,
28 horticultural, viticultural or floricultural crops or products in this state
29 and that are used directly and primarily to prevent, monitor, control or
30 reduce air, water or land pollution.

31 21. Machinery or equipment that enables a television station to
32 originate and broadcast or to receive and broadcast digital television

1 signals and that was purchased to facilitate compliance with the
2 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
3 Code section 336) and the federal communications commission order issued
4 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
5 not exempt any of the following:

6 (a) Repair or replacement parts purchased for the machinery or
7 equipment described in this paragraph.

8 (b) Machinery or equipment purchased to replace machinery or equipment
9 for which an exemption was previously claimed and taken under this paragraph.

10 (c) Any machinery or equipment purchased after the television station
11 has ceased analog broadcasting, or purchased after November 1, 2009,
12 whichever occurs first.

13 22. Qualifying equipment that is purchased from and after June 30, 2004
14 through June 30, 2014 by a qualified business under section 41-1516 for
15 harvesting or the initial processing of qualifying forest products removed
16 from qualifying projects as defined in section 41-1516. To qualify for this
17 deduction, the qualified business at the time of purchase must present its
18 certification approved by the department.

19 23. Machinery, equipment and other tangible personal property used
20 directly in motion picture production by a motion picture production company.
21 To qualify for this deduction, at the time of purchase, the motion picture
22 production company must present to the retailer its certificate that is
23 issued pursuant to section 42-5009, subsection H and that establishes its
24 qualification for the deduction.

25 C. The deductions provided by subsection B of this section do not
26 include sales of:

27 1. Expendable materials. For the purposes of this paragraph,
28 expendable materials do not include any of the categories of tangible
29 personal property specified in subsection B of this section regardless of the
30 cost or useful life of that property.

31 2. Janitorial equipment and hand tools.

32 3. Office equipment, furniture and supplies.

1 4. Tangible personal property used in selling or distributing
2 activities, other than the telecommunications transmissions described in
3 subsection B, paragraph 16 of this section.

4 5. Motor vehicles required to be licensed by this state, except buses
5 or other urban mass transit vehicles specifically exempted pursuant to
6 subsection B, paragraph 11 of this section, without regard to the use of such
7 motor vehicles.

8 6. Shops, buildings, docks, depots and all other materials of whatever
9 kind or character not specifically included as exempt.

10 7. Motors and pumps used in drip irrigation systems.

11 D. In addition to the deductions from the tax base prescribed by
12 subsection A of this section, there shall be deducted from the tax base the
13 gross proceeds of sales or gross income derived from sales of machinery,
14 equipment, materials and other tangible personal property used directly and
15 predominantly to construct a qualified environmental technology
16 manufacturing, producing or processing facility as described in section
17 41-1514.02. This subsection applies for ten full consecutive calendar or
18 fiscal years after the start of initial construction.

19 E. In computing the tax base, gross proceeds of sales or gross income
20 from retail sales of heavy trucks and trailers does not include any amount
21 attributable to federal excise taxes imposed by 26 United States Code section
22 4051.

23 F. In computing the tax base, gross proceeds of sales or gross income
24 from the sale of use fuel, as defined in section 28-5601, does not include
25 any amount attributable to federal excise taxes imposed by 26 United States
26 Code section 4091.

27 G. If a person is engaged in an occupation or business to which
28 subsection A of this section applies, the person's books shall be kept so as
29 to show separately the gross proceeds of sales of tangible personal property
30 and the gross income from sales of services, and if not so kept the tax shall
31 be imposed on the total of the person's gross proceeds of sales of tangible
32 personal property and gross income from services.

1 H. If a person is engaged in the business of selling tangible personal
2 property at both wholesale and retail, the tax under this section applies
3 only to the gross proceeds of the sales made other than at wholesale if the
4 person's books are kept so as to show separately the gross proceeds of sales
5 of each class, and if the books are not so kept, the tax under this section
6 applies to the gross proceeds of every sale so made.

7 I. A person who engages in manufacturing, baling, crating, boxing,
8 barreling, canning, bottling, sacking, preserving, processing or otherwise
9 preparing for sale or commercial use any livestock, agricultural or
10 horticultural product or any other product, article, substance or commodity
11 and who sells the product of such business at retail in this state is deemed,
12 as to such sales, to be engaged in business classified under the retail
13 classification. This subsection does not apply to businesses classified
14 under the:

- 15 1. Transporting classification.
- 16 2. Utilities classification.
- 17 3. Telecommunications classification.
- 18 4. Pipeline classification.
- 19 5. Private car line classification.
- 20 6. Publication classification.
- 21 7. Job printing classification.
- 22 8. Prime contracting classification.
- 23 9. Owner builder sales classification.
- 24 10. Restaurant classification.

25 J. The gross proceeds of sales or gross income derived from the
26 following shall be deducted from the tax base for the retail classification:

- 27 1. Sales made directly to the United States government or its
28 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 29 2. Sales made directly to a manufacturer, modifier, assembler or
30 repairer if such sales are of any ingredient or component part of products
31 sold directly to the United States government or its departments or agencies
32 by the manufacturer, modifier, assembler or repairer.

1 3. Overhead materials or other tangible personal property that is used
2 in performing a contract between the United States government and a
3 manufacturer, modifier, assembler or repairer, including property used in
4 performing a subcontract with a government contractor who is a manufacturer,
5 modifier, assembler or repairer, to which title passes to the government
6 under the terms of the contract or subcontract.

7 4. Sales of overhead materials or other tangible personal property to
8 a manufacturer, modifier, assembler or repairer if the gross proceeds of
9 sales or gross income derived from the property by the manufacturer,
10 modifier, assembler or repairer will be exempt under paragraph 3 of this
11 subsection.

12 K. There shall be deducted from the tax base fifty per cent of the
13 gross proceeds or gross income from any sale of tangible personal property
14 made directly to the United States government or its departments or agencies,
15 which is not deducted under subsection J of this section.

16 L. The department shall require every person claiming a deduction
17 provided by subsection J or K of this section to file on forms prescribed by
18 the department at such times as the department directs a sworn statement
19 disclosing the name of the purchaser and the exact amount of sales on which
20 the exclusion or deduction is claimed.

21 M. In computing the tax base, gross proceeds of sales or gross income
22 does not include:

23 1. A manufacturer's cash rebate on the sales price of a motor vehicle
24 if the buyer assigns the buyer's right in the rebate to the retailer.

25 2. The waste tire disposal fee imposed pursuant to section 44-1302.

26 N. There shall be deducted from the tax base the amount received from
27 sales of solar energy devices. The retailer shall register with the
28 department as a solar energy retailer. By registering, the retailer
29 acknowledges that it will make its books and records relating to sales of
30 solar energy devices available to the department for examination.

31 O. In computing the tax base in the case of the sale or transfer of
32 wireless telecommunications equipment as an inducement to a customer to enter

1 into or continue a contract for telecommunications services that are taxable
2 under section 42-5064, gross proceeds of sales or gross income does not
3 include any sales commissions or other compensation received by the retailer
4 as a result of the customer entering into or continuing a contract for the
5 telecommunications services.

6 P. For the purposes of this section, a sale of wireless
7 telecommunications equipment to a person who holds the equipment for sale or
8 transfer to a customer as an inducement to enter into or continue a contract
9 for telecommunications services that are taxable under section 42-5064 is
10 considered to be a sale for resale in the regular course of business.

11 Q. Retail sales of prepaid calling cards or prepaid authorization
12 numbers for telecommunications services, including sales of reauthorization
13 of a prepaid card or authorization number, are subject to tax under this
14 section.

15 R. For the purposes of this section, the diversion of gas from a
16 pipeline by a person engaged in the business of:

17 1. Operating a natural or artificial gas pipeline, for the sole
18 purpose of fueling compressor equipment to pressurize the pipeline, is not a
19 sale of the gas to the operator of the pipeline.

20 2. Converting natural gas into liquefied natural gas, for the sole
21 purpose of fueling compressor equipment used in the conversion process, is
22 not a sale of gas to the operator of the compressor equipment.

23 S. If a seller is entitled to a deduction pursuant to subsection B,
24 paragraph 16, subdivision (b) of this section, the department may require the
25 purchaser to establish that the requirements of subsection B, paragraph 16,
26 subdivision (b) of this section have been satisfied. If the purchaser cannot
27 establish that the requirements of subsection B, paragraph 16, subdivision
28 (b) of this section have been satisfied, the purchaser is liable in an amount
29 equal to any tax, penalty and interest which the seller would have been
30 required to pay under article 1 of this chapter if the seller had not made a
31 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
32 section. Payment of the amount under this subsection exempts the purchaser

1 from liability for any tax imposed under article 4 of this chapter and
2 related to the tangible personal property purchased. The amount shall be
3 treated as transaction privilege tax to the purchaser and as tax revenues
4 collected from the seller to designate the distribution base pursuant to
5 section 42-5029.

6 T. For the purposes of section 42-5032.01, the department shall
7 separately account for revenues collected under the retail classification
8 from businesses selling tangible personal property at retail:

9 1. On the premises of a multipurpose facility that is owned, leased or
10 operated by the tourism and sports authority pursuant to title 5, chapter 8.

11 2. At professional football contests that are held in a stadium
12 located on the campus of an institution under the jurisdiction of the Arizona
13 board of regents.

14 U. In computing the tax base for the sale of a motor vehicle to a
15 nonresident of this state, if the purchaser's state of residence allows a
16 corresponding use tax exemption to the tax imposed by article 1 of this
17 chapter and the rate of the tax in the purchaser's state of residence is
18 lower than the rate prescribed in article 1 of this chapter or if the
19 purchaser's state of residence does not impose an excise tax, and the
20 nonresident has secured a special ninety day nonresident registration permit
21 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
22 be deducted from the tax base a portion of the gross proceeds or gross income
23 from the sale so that the amount of transaction privilege tax that is paid in
24 this state is equal to the excise tax that is imposed by the purchaser's
25 state of residence on the nonexempt sale or use of the motor vehicle.

26 V. For the purposes of this section:

27 1. "Aircraft" includes:

28 (a) An airplane flight simulator that is approved by the federal
29 aviation administration for use as a phase II or higher flight simulator
30 under appendix H, 14 Code of Federal Regulations part 121.

1 (b) Tangible personal property that is permanently affixed or attached
2 as a component part of an aircraft that is owned or operated by a
3 certificated or licensed carrier of persons or property.

4 2. "Other accessories and related equipment" includes aircraft
5 accessories and equipment such as ground service equipment that physically
6 contact aircraft at some point during the overall carrier operation.

7 3. "Selling at retail" means a sale for any purpose other than for
8 resale in the regular course of business in the form of tangible personal
9 property, but transfer of possession, lease and rental as used in the
10 definition of sale mean only such transactions as are found on investigation
11 to be in lieu of sales as defined without the words lease or rental.

12 W. For the purposes of subsection J of this section:

13 1. "Assembler" means a person who unites or combines products, wares
14 or articles of manufacture so as to produce a change in form or substance
15 without changing or altering the component parts.

16 2. "Manufacturer" means a person who is principally engaged in the
17 fabrication, production or manufacture of products, wares or articles for use
18 from raw or prepared materials, imparting to those materials new forms,
19 qualities, properties and combinations.

20 3. "Modifier" means a person who reworks, changes or adds to products,
21 wares or articles of manufacture.

22 4. "Overhead materials" means tangible personal property, the gross
23 proceeds of sales or gross income derived from which would otherwise be
24 included in the retail classification, and which are used or consumed in the
25 performance of a contract, the cost of which is charged to an overhead
26 expense account and allocated to various contracts based upon generally
27 accepted accounting principles and consistent with government contract
28 accounting standards.

29 5. "Repairer" means a person who restores or renews products, wares or
30 articles of manufacture.

31 6. "Subcontract" means an agreement between a contractor and any
32 person who is not an employee of the contractor for furnishing of supplies or

1 services that, in whole or in part, are necessary to the performance of one
2 or more government contracts, or under which any portion of the contractor's
3 obligation under one or more government contracts is performed, undertaken or
4 assumed and that includes provisions causing title to overhead materials or
5 other tangible personal property used in the performance of the subcontract
6 to pass to the government or that includes provisions incorporating such
7 title passing clauses in a government contract into the subcontract.

8 Sec. 3. Section 42-5063, Arizona Revised Statutes, is amended to read:

9 42-5063. Utilities classification; definitions

10 A. The utilities classification is comprised of the business of:

11 1. Producing and furnishing or furnishing to consumers natural or
12 artificial gas and water.

13 2. Providing to retail electric customers ancillary services, electric
14 distribution services, electric generation services, electric transmission
15 services and other services related to providing electricity.

16 B. The ~~utility~~ UTILITIES classification does not include:

17 1. Sales of ancillary services, electric distribution services,
18 electric generation services, electric transmission services and other
19 services related to providing electricity, gas or water to a person who
20 resells the services.

21 2. Sales of natural gas or liquefied petroleum gas used to propel a
22 motor vehicle.

23 3. Sales of alternative fuel, as defined in section 1-215, to a used
24 oil fuel burner who has received a permit to burn used oil or used oil fuel
25 under section 49-426 or 49-480.

26 4. Sales of ancillary services, electric distribution services,
27 electric generation services, electric transmission services and other
28 services that are related to providing electricity to a retail electric
29 customer who is located outside this state for use outside this state if the
30 electricity is delivered to a point of sale outside this state.

1 C. The tax base for the utilities classification is the gross proceeds
2 of sales or gross income derived from the business, but the following shall
3 be deducted from the tax base:

4 1. Revenues received by a municipally owned utility in the form of
5 fees charged to persons constructing residential, commercial or industrial
6 developments or connecting residential, commercial or industrial developments
7 to a municipal utility system or systems if the fees are segregated and used
8 only for capital expansion, system enlargement or debt service of the utility
9 system or systems.

10 2. Revenues received by any person or persons owning a utility system
11 in the form of reimbursement or contribution compensation for property and
12 equipment installed to provide utility access to, on or across the land of an
13 actual utility consumer if the property and equipment become the property of
14 the utility. This deduction shall not exceed the value of such property and
15 equipment.

16 3. Gross proceeds of sales or gross income derived from sales to:

17 (a) Qualifying hospitals as defined in section 42-5001.

18 (b) A qualifying health care organization as defined in section
19 42-5001 if the tangible personal property is used by the organization solely
20 to provide health and medical related educational and charitable services.

21 (c) A STATE UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
22 REGENTS.

23 4. The portion of gross proceeds of sales or gross income that is
24 derived from sales to ~~an~~ A QUALIFIED environmental technology manufacturer,
25 producer or processor as defined in section 41-1514.02 of a utility product
26 and that is used directly in environmental technology manufacturing,
27 producing or processing. This paragraph shall apply for fifteen full
28 consecutive calendar or fiscal years from the date the first paper
29 manufacturing machine is placed in service. In the case of ~~an~~ A QUALIFIED
30 environmental technology manufacturer, producer or processor who does not
31 manufacture paper, the time period shall begin with the date the first
32 manufacturing, processing or production equipment is placed in service.

1 D. For **THE** purposes of this section:

2 1. "Ancillary services" means those services so designated in federal
3 energy regulatory commission order 888 adopted in 1996 that include the
4 services necessary to support the transmission of electricity from resources
5 to loads while maintaining reliable operation of the transmission system
6 according to good utility practice.

7 2. "Electric distribution service" means distributing electricity to
8 retail electric customers through the use of electric distribution
9 facilities.

10 3. "Electric generation service" means providing electricity for sale
11 to retail electric customers but excluding electric distribution or
12 transmission services.

13 4. "Electric transmission service" means transmitting electricity to
14 retail electric customers or to electric distribution facilities so
15 classified by the federal energy regulatory commission or, to the extent
16 permitted by law, so classified by the Arizona corporation commission.

17 5. "Other services" includes metering, meter reading services, billing
18 and collecting services.

19 6. "Retail electric customer" means a person who purchases electricity
20 for that person's own use, including use in that person's trade or business
21 and not for resale, redistribution or retransmission.

22 Sec. 4. Section 42-5064, Arizona Revised Statutes, is amended to read:

23 42-5064. Telecommunications classification; definitions

24 A. The telecommunications classification is comprised of the business
25 of providing intrastate telecommunications services. The telecommunications
26 classification does not include:

27 1. Sales of intrastate telecommunications services by a cable
28 television system as defined in section 9-505 or by a microwave television
29 transmission system that transmits television programming to multiple
30 subscribers and that is operated pursuant to 47 Code of Federal Regulations
31 parts 21 and 74.

1 2. Sales of internet access services to the person's subscribers and
2 customers.

3 B. The tax base for the telecommunications classification is the gross
4 proceeds of sales or gross income derived from the business, including the
5 gross income derived from tolls, subscriptions and services on behalf of
6 subscribers or from the publication of a directory of the names of
7 subscribers. However, the gross proceeds of sales or gross income derived
8 from the following shall be deducted from the tax base:

9 1. Sales of intrastate telecommunications services to:

10 (a) Other persons engaged in businesses classified under the
11 telecommunications classification for use in such business.

12 (b) A direct broadcast satellite television or data transmission
13 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
14 100 for use in its direct broadcast satellite television or data transmission
15 operation by a facility described in section 42-5061, subsection B, paragraph
16 16, subdivision (b).

17 2. End user common line charges established by federal communications
18 commission regulations (47 Code of Federal Regulations section 69.104(a)).

19 3. Carrier access charges established by federal communications
20 commission regulations (47 Code of Federal Regulations sections 69.105(a)
21 through 69.118).

22 4. Sales of direct broadcast satellite television services pursuant to
23 47 Code of Federal Regulations parts 25 and 100 by a direct broadcast
24 satellite television service that operates pursuant to 47 Code of Federal
25 Regulations parts 25 and 100.

26 5. Telecommunications services purchased with a prepaid calling card,
27 or a prepaid authorization number for telecommunications services, that is
28 taxable under section 42-5061.

29 6. TELECOMMUNICATIONS SERVICES SOLD TO A STATE UNIVERSITY UNDER THE
30 JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

31 C. A person that is engaged in a transient lodging business subject to
32 taxation under section 42-5070 and that provides telephone, fax or internet

1 access services to its customers at an additional charge, which is separately
2 stated on the customer invoice, is considered to be engaged in business
3 subject to taxation under this section for the purposes of taxing the gross
4 proceeds of sales or gross income derived from providing those services.

5 D. The gross proceeds of sales or gross income derived from a bundled
6 transaction of services that are taxable pursuant to section 42-5023 are
7 subject to the following:

8 1. A telecommunications service provider who can reasonably identify
9 the portion of the sales price of the bundled transaction derived from
10 charges for nontaxable services is subject to tax only on the gross proceeds
11 of sales or gross income derived from the taxable services. For the purposes
12 of this section, the telecommunications service provider may elect to
13 reasonably identify the portion of the sales price of the bundled transaction
14 derived from charges for nontaxable services by using allocation percentages
15 derived from the telecommunications service provider's entire service area,
16 including territories outside of this state. On request, the department may
17 require the telecommunications service provider to provide this allocation
18 information. The reasonableness of the allocation is subject to audit by the
19 department.

20 2. Notwithstanding sections 42-1118, 42-1120 and 42-1121, the
21 telecommunications service provider shall waive the right to file a claim for
22 a refund of taxes paid on the bundled transaction if the taxes paid are based
23 on the allocation percentage the telecommunications service provider had
24 determined to be reasonable at the beginning of the tax period at issue.

25 3. The burden of proof is on the telecommunications service provider
26 to establish that the gross proceeds of sales or gross income is derived from
27 charges for nontaxable services.

28 E. For the purposes of this section:

29 1. "Bundled transaction" means a sale of multiple services in which
30 both of the following apply:

31 (a) The sale consists of both taxable and nontaxable services.

1 (b) The telecommunications service provider charges a customer one
2 sales price for all services that are sold instead of separately charging for
3 each individual service.

4 2. "Internet" means the computer and telecommunications facilities
5 that comprise the interconnected worldwide network of networks that employ
6 the transmission control protocol or internet protocol, or any predecessor or
7 successor protocol, to communicate information of all kinds by wire or radio.

8 3. "Internet access" means a service that enables users to access
9 content, information, electronic mail or other services over the
10 internet. Internet access does not include telecommunications services
11 provided by a common carrier.

12 4. "Intrastate telecommunications services" means transmitting signs,
13 signals, writings, images, sounds, messages, data or other information of any
14 nature by wire, radio waves, light waves or other electromagnetic means if
15 the information transmitted originates and terminates in this state.

16 Sec. 5. Section 42-5066, Arizona Revised Statutes, is amended to read:

17 42-5066. Job printing classification

18 A. The job printing classification is comprised of the business of job
19 printing, engraving, embossing and copying.

20 B. The tax base for the job printing classification is the gross
21 proceeds of sales or gross income derived from the business, but the gross
22 proceeds of sales or gross income derived from the following shall be
23 deducted from the tax base:

24 1. Sales to a person in this state who has a transaction privilege tax
25 license issued in this state, and who does either of the following:

26 (a) Resells the job printing, engraving, embossing or copying.

27 (b) Distributes such printing, engraving, embossing or copying without
28 consideration in connection with the publication of a newspaper or magazine.

29 2. Sales of job printing, engraving, embossing and copying for use
30 outside this state if the materials are shipped or delivered out of this
31 state regardless of where title to the materials passes or their free on
32 board point.

3. Sales of personal property to:

(b) A qualifying health care organization as defined in section 501(c)(3) of the Internal Revenue Code, if the tangible personal property is used by the organization solely to provide health and medical related educational and charitable services.

5. Sales to a motion picture production company that will use the job printing, engraving, embossing or copying directly in motion picture production. To qualify for this deduction, at the time of sale, the motion picture production company must present the job printer its certificate that was issued pursuant to section 42-5009, subsection H, and that establishes its qualifications for the deduction.

6. SALES TO A STATE UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS.

A. The prime contracting classification is comprised of the business of prime contracting and dealership of manufactured buildings. Sales for resale to another dealership of manufactured buildings are not subject to tax. Sales for resale do not include sales to a lessor of manufactured buildings. The sale of a used manufactured building is not taxable under this chapter. The proceeds from alteration and repairs to a used manufactured building are taxable under this section.

B. The tax base for the prime contracting classification is sixty-five per cent of the gross proceeds of sales or gross income derived from the business. The following amounts shall be deducted from the gross proceeds of sales or gross income before computing the tax base:

1 1. The sales price of land, which shall not exceed the fair market
2 value.

3 2. Sales and installation of groundwater measuring devices required
4 under section 45-604 and groundwater monitoring wells required by law,
5 including monitoring wells installed for acquiring information for a permit
6 required by law.

7 3. The sales price of furniture, furnishings, fixtures, appliances and
8 attachments that are not incorporated as component parts of or attached to a
9 manufactured building or the setup site. The sale of such items may be
10 subject to the taxes imposed by article 1 of this chapter separately and
11 distinctly from the sale of the manufactured building.

12 4. The gross proceeds of sales or gross income received from a
13 contract entered into for the construction, alteration, repair, addition,
14 subtraction, improvement, movement, wrecking or demolition of any building,
15 highway, road, railroad, excavation, manufactured building or other
16 structure, project, development or improvement located in a military reuse
17 zone for providing aviation or aerospace services or for a manufacturer,
18 assembler or fabricator of aviation or aerospace products within an active
19 military reuse zone after the zone is initially established or renewed under
20 section 41-1531. To be eligible to qualify for this deduction, before
21 beginning work under the contract, the prime contractor must have applied for
22 a letter of qualification from the department of revenue.

23 5. The gross proceeds of sales or gross income derived from a contract
24 to construct a qualified environmental technology manufacturing, producing or
25 processing facility, as described in section 41-1514.02, and from subsequent
26 construction and installation contracts that begin within ten years after the
27 start of initial construction. To qualify for this deduction, before
28 beginning work under the contract, the prime contractor must obtain a letter
29 of qualification from the department of revenue. This paragraph shall apply
30 for ten full consecutive calendar or fiscal years after the start of initial
31 construction.

1 6. The gross proceeds of sales or gross income from a contract to
2 provide for one or more of the following actions, or a contract for site
3 preparation, constructing, furnishing or installing machinery, equipment or
4 other tangible personal property, including structures necessary to protect
5 exempt incorporated materials or installed machinery or equipment, and
6 tangible personal property incorporated into the project, to perform one or
7 more of the following actions in response to a release or suspected release
8 of a hazardous substance, pollutant or contaminant from a facility to the
9 environment, unless the release was authorized by a permit issued by a
10 governmental authority:

11 (a) Actions to monitor, assess and evaluate such a release or a
12 suspected release.

13 (b) Excavation, removal and transportation of contaminated soil and
14 its treatment or disposal.

15 (c) Treatment of contaminated soil by vapor extraction, chemical or
16 physical stabilization, soil washing or biological treatment to reduce the
17 concentration, toxicity or mobility of a contaminant.

18 (d) Pumping and treatment or in situ treatment of contaminated
19 groundwater or surface water to reduce the concentration or toxicity of a
20 contaminant.

21 (e) The installation of structures, such as cutoff walls or caps, to
22 contain contaminants present in groundwater or soil and prevent them from
23 reaching a location where they could threaten human health or welfare or the
24 environment.

25 This paragraph does not include asbestos removal or the construction or use
26 of ancillary structures such as maintenance sheds, offices or storage
27 facilities for unattached equipment, pollution control equipment, facilities
28 or other control items required or to be used by a person to prevent or
29 control contamination before it reaches the environment.

30 7. The gross proceeds of sales or gross income that is derived from a
31 contract entered into for the installation, assembly, repair or maintenance
32 of machinery, equipment or other tangible personal property that is deducted

1 from the tax base of the retail classification pursuant to section 42-5061,
2 subsection B, or that is exempt from use tax pursuant to section 42-5159,
3 subsection B, and that does not become a permanent attachment to a building,
4 highway, road, railroad, excavation or manufactured building or other
5 structure, project, development or improvement. If the ownership of the
6 realty is separate from the ownership of the machinery, equipment or tangible
7 personal property, the determination as to permanent attachment shall be made
8 as if the ownership were the same. The deduction provided in this paragraph
9 does not include gross proceeds of sales or gross income from that portion of
10 any contracting activity which consists of the development of, or
11 modification to, real property in order to facilitate the installation,
12 assembly, repair, maintenance or removal of machinery, equipment or other
13 tangible personal property that is deducted from the tax base of the retail
14 classification pursuant to section 42-5061, subsection B or that is exempt
15 from use tax pursuant to section 42-5159, subsection B. For the purposes of
16 this paragraph, "permanent attachment" means at least one of the following:

17 (a) To be incorporated into real property.

18 (b) To become so affixed to real property that it becomes a part of
19 the real property.

20 (c) To be so attached to real property that removal would cause
21 substantial damage to the real property from which it is removed.

22 8. Through December 31, 2009, the gross proceeds of sales or gross
23 income received from a contract for constructing any lake facility
24 development in a commercial enhancement reuse district that is designated
25 pursuant to section 9-499.08 if the prime contractor maintains the following
26 records in a form satisfactory to the department and to the city or town in
27 which the property is located:

28 (a) The certificate of qualification of the lake facility development
29 issued by the city or town pursuant to section 9-499.08, subsection D.

30 (b) All state and local transaction privilege tax returns for the
31 period of time during which the prime contractor received gross proceeds of
32 sales or gross income from a contract to construct a lake facility

1 development in a designated commercial enhancement reuse district, showing
2 the amount exempted from state and local taxation.

3 (c) Any other information that the department considers to be
4 necessary.

5 9. The gross proceeds of sales or gross income attributable to the
6 purchase of machinery, equipment or other tangible personal property that is
7 exempt from or deductible from transaction privilege and use tax under:

8 (a) Section 42-5061, subsection A, paragraph 25 or 29.

9 (b) Section 42-5061, subsection B.

10 (c) Section 42-5159, subsection A, paragraph 13, subdivision (a), (b),
11 (c), (d), (e), (f), (i), (j) or (l).

12 (d) Section 42-5159, subsection B.

13 10. The gross proceeds of sales or gross income received from a
14 contract for the construction of an environmentally controlled facility for
15 the raising of poultry for the production of eggs and the sorting, cooling
16 and packaging of eggs.

17 11. The gross proceeds of sales or gross income that is derived from a
18 contract entered into with a person who is engaged in the commercial
19 production of livestock, livestock products or agricultural, horticultural,
20 viticultural or floricultural crops or products in this state for the
21 construction, alteration, repair, improvement, movement, wrecking or
22 demolition or addition to or subtraction from any building, highway, road,
23 excavation, manufactured building or other structure, project, development or
24 improvement used directly and primarily to prevent, monitor, control or
25 reduce air, water or land pollution.

26 12. The gross proceeds of sales or gross income that is derived from
27 the installation, assembly, repair or maintenance of clean rooms that are
28 deducted from the tax base of the retail classification pursuant to section
29 42-5061, subsection B, paragraph 17.

30 13. For taxable periods beginning from and after June 30, 2001, the
31 gross proceeds of sales or gross income derived from a contract entered into
32 for the construction of a residential apartment housing facility that

1 qualifies for a federal housing subsidy for low income persons over sixty-two
2 years of age and that is owned by a nonprofit charitable organization that
3 has qualified under section 501(c)(3) of the internal revenue code.

4 14. For taxable periods beginning from and after December 31, 1996 and
5 ending before January 1, 2011, the gross proceeds of sales or gross income
6 derived from a contract to provide and install a solar energy device. The
7 contractor shall register with the department as a solar energy contractor.
8 By registering, the contractor acknowledges that it will make its books and
9 records relating to sales of solar energy devices available to the department
10 for examination.

11 15. The gross proceeds of sales or gross income derived from a contract
12 entered into for the construction of a launch site, as defined in 14 Code of
13 Federal Regulations section 401.5.

14 16. The gross proceeds of sales or gross income derived from a contract
15 entered into for the construction of a domestic violence shelter that is
16 owned and operated by a nonprofit charitable organization that has qualified
17 under section 501(c)(3) of the internal revenue code.

18 17. The gross proceeds of sales or gross income derived from contracts
19 to perform postconstruction treatment of real property for termite and
20 general pest control, including wood destroying organisms.

21 18. The gross proceeds of sales or gross income received from contracts
22 entered into before July 1, 2006 for constructing a state university research
23 infrastructure project if the project has been reviewed by the joint
24 committee on capital review before the university enters into the
25 construction contract for the project. For the purposes of this paragraph,
26 "research infrastructure" has the same meaning prescribed in section 15-1670.

27 19. The gross proceeds of sales or gross income received from a
28 contract for the construction of any building, or other structure, project,
29 development or improvement owned by a qualified business under section
30 41-1516 for harvesting or the initial processing of qualifying forest
31 products removed from qualifying projects as defined in section 41-1516 if
32 actual construction begins before January 1, 2010. To qualify for this

1 deduction, the prime contractor must obtain a letter of qualification from
2 the department of commerce before beginning work under the contract.

3 20. The gross proceeds of sales or gross income received from a
4 contract for the construction of any building or other structure associated
5 with motion picture production in this state. To qualify for the deduction,
6 at the time the contract is entered into the motion picture production
7 company must present to the prime contractor its certificate that is issued
8 pursuant to section 42-5009, subsection H and that establishes its
9 qualification for the deduction.

10 21. Any amount of the gross proceeds of sales or gross income from a
11 contract that constitutes development or impact fees paid to the state or a
12 local government to offset governmental costs of providing public
13 infrastructure, public safety and other public services to a development.

14 22. THE GROSS PROCEEDS OF SALES OR GROSS INCOME RECEIVED FROM A
15 CONTRACT FOR THE CONSTRUCTION OF ANY BUILDING OR OTHER STRUCTURE, PROJECT,
16 DEVELOPMENT OR IMPROVEMENT FOR A STATE UNIVERSITY UNDER THE JURISDICTION OF
17 THE ARIZONA BOARD OF REGENTS.

18 C. Entitlement to the deduction pursuant to subsection B, paragraph 7
19 of this section is subject to the following provisions:

20 1. A prime contractor may establish entitlement to the deduction by
21 both:

22 (a) Marking the invoice for the transaction to indicate that the gross
23 proceeds of sales or gross income derived from the transaction was deducted
24 from the base.

25 (b) Obtaining a certificate executed by the purchaser indicating the
26 name and address of the purchaser, the precise nature of the business of the
27 purchaser, the purpose for which the purchase was made, the necessary facts
28 to establish the deductibility of the property under section 42-5061,
29 subsection B, and a certification that the person executing the certificate
30 is authorized to do so on behalf of the purchaser. The certificate may be
31 disregarded if the prime contractor has reason to believe that the
32 information contained in the certificate is not accurate or complete.

1 2. A person who does not comply with paragraph 1 of this subsection
2 may establish entitlement to the deduction by presenting facts necessary to
3 support the entitlement, but the burden of proof is on that person.

4 3. The department may prescribe a form for the certificate described
5 in paragraph 1, subdivision (b) of this subsection. The department may also
6 adopt rules that describe the transactions with respect to which a person is
7 not entitled to rely solely on the information contained in the certificate
8 provided in paragraph 1, subdivision (b) of this subsection but must instead
9 obtain such additional information as required in order to be entitled to the
10 deduction.

11 4. If a prime contractor is entitled to a deduction by complying with
12 paragraph 1 of this subsection, the department may require the purchaser who
13 caused the execution of the certificate to establish the accuracy and
14 completeness of the information required to be contained in the certificate
15 which would entitle the prime contractor to the deduction. If the purchaser
16 cannot establish the accuracy and completeness of the information, the
17 purchaser is liable in an amount equal to any tax, penalty and interest which
18 the prime contractor would have been required to pay under article 1 of this
19 chapter if the prime contractor had not complied with paragraph 1 of this
20 subsection. Payment of the amount under this paragraph exempts the purchaser
21 from liability for any tax imposed under article 4 of this chapter. The
22 amount shall be treated as a transaction privilege tax to the purchaser and
23 as tax revenues collected from the prime contractor in order to designate the
24 distribution base for purposes of section 42-5029.

25 D. Subcontractors or others who perform services in respect to any
26 improvement, building, highway, road, railroad, excavation, manufactured
27 building or other structure, project, development or improvement are not
28 subject to tax if they can demonstrate that the job was within the control of
29 a prime contractor or contractors or a dealership of manufactured buildings
30 and that the prime contractor or dealership is liable for the tax on the
31 gross income, gross proceeds of sales or gross receipts attributable to the
32 job and from which the subcontractors or others were paid.

1 E. Amounts received by a contractor for a project are excluded from
2 the contractor's gross proceeds of sales or gross income derived from the
3 business if the person who hired the contractor executes and provides a
4 certificate to the contractor stating that the person providing the
5 certificate is a prime contractor and is liable for the tax under article 1
6 of this chapter. The department shall prescribe the form of the certificate.
7 If the contractor has reason to believe that the information contained on the
8 certificate is erroneous or incomplete, the department may disregard the
9 certificate. If the person who provides the certificate is not liable for
10 the tax as a prime contractor, that person is nevertheless deemed to be the
11 prime contractor in lieu of the contractor and is subject to the tax under
12 this section on the gross receipts or gross proceeds received by the
13 contractor.

14 F. Every person engaging or continuing in this state in the business
15 of prime contracting or dealership of manufactured buildings shall present to
16 the purchaser of such prime contracting or manufactured building a written
17 receipt of the gross income or gross proceeds of sales from such activity and
18 shall separately state the taxes to be paid pursuant to this section.

19 G. For the purposes of section 42-5032.01, the department shall
20 separately account for revenues collected under the prime contracting
21 classification from any prime contractor engaged in the preparation or
22 construction of a multipurpose facility, and related infrastructure, that is
23 owned, operated or leased by the tourism and sports authority pursuant to
24 title 5, chapter 8.

25 H. The gross proceeds of sales or gross income derived from a contract
26 for lawn maintenance services are not subject to tax under this section if
27 the contract does not include landscaping activities. Lawn maintenance
28 service is a service pursuant to section 42-5061, subsection A, paragraph 1,
29 and includes lawn mowing and edging, weeding, repairing sprinkler heads or
30 drip irrigation heads, seasonal replacement of flowers, refreshing gravel,
31 lawn de-thatching, seeding winter lawns, leaf and debris collection and
32 removal, tree or shrub pruning or clipping, garden and gravel raking and

1 applying pesticides, as defined in section 3-361, and fertilizer materials,
2 as defined in section 3-262.

3 I. The gross proceeds of sales or gross income derived from
4 landscaping activities are subject to tax under this section. Landscaping
5 includes installing lawns, grading or leveling ground, installing gravel or
6 boulders, planting trees and other plants, felling trees, removing or
7 mulching tree stumps, removing other imbedded plants, building or modifying
8 irrigation berms, repairing sprinkler or watering systems, installing
9 railroad ties and installing underground sprinkler or watering systems.

10 J. The portion of gross proceeds of sales or gross income attributable
11 to the actual direct costs of providing architectural or engineering services
12 that are incorporated in a contract is not subject to tax under this section.
13 For the purposes of this subsection, "direct costs" means the portion of the
14 actual costs that are directly expended in providing architectural or
15 engineering services.

16 K. Operating a landfill or a solid waste disposal facility is not
17 subject to taxation under this section, including filling, compacting and
18 creating vehicle access to and from cell sites within the landfill.
19 Constructing roads to a landfill or solid waste disposal facility and
20 constructing cells within a landfill or solid waste disposal facility may be
21 deemed prime contracting under this section.

22 L. The following apply to manufactured buildings:

23 1. For sales in this state where the dealership of manufactured
24 buildings contracts to deliver the building to a setup site or to perform the
25 setup in this state, the taxable situs is the setup site.

26 2. For sales in this state where the dealership of manufactured
27 buildings does not contract to deliver the building to a setup site or does
28 not perform the setup, the taxable situs is the location of the dealership
29 where the building is delivered to the buyer.

30 3. For sales in this state where the dealership of manufactured
31 buildings contracts to deliver the building to a setup site that is outside

1 this state, the situs is outside this state and the transaction is excluded
2 from tax.

3 M. Notwithstanding subsection N, paragraph 8 of this section, a person
4 owning real property who enters into a contract for sale of the real
5 property, who is responsible to the new owner of the property for
6 modifications made to the property in the period subsequent to the transfer
7 of title and who receives a consideration for the modifications is considered
8 a prime contractor solely for purposes of taxing the gross proceeds of sale
9 or gross income received for the modifications made subsequent to the
10 transfer of title. The original owner's gross proceeds of sale or gross
11 income received for the modifications shall be determined according to the
12 following methodology:

13 1. If any part of the contract for sale of the property specifies
14 amounts to be paid to the original owner for the modifications to be made in
15 the period subsequent to the transfer of title, the amounts are included in
16 the original owner's gross proceeds of sale or gross income under this
17 section. Proceeds from the sale of the property **THAT ARE** received after
18 transfer of title **AND** that are unrelated to the modifications made subsequent
19 to the transfer of title ~~will~~ **ARE** not ~~be~~ considered gross proceeds of sale or
20 gross income from the modifications.

21 2. If the original owner enters into an agreement separate from the
22 contract for sale of the real property providing for amounts to be paid to
23 the original owner for the modifications to be made in the period subsequent
24 to the transfer of title to the property, the amounts are included in the
25 original owner's gross proceeds of sale or gross income received for the
26 modifications made subsequent to the transfer of title.

27 3. If the original owner is responsible to the new owner for
28 modifications made to the property in the period subsequent to the transfer
29 of title and derives any gross proceeds of sale or gross income from the
30 project subsequent to the transfer of title other than a delayed disbursement
31 from escrow unrelated to the modifications, it is presumed that the amounts
32 are received for the modifications made subsequent to the transfer of title

1 unless the contrary is established by the owner through its books, records
2 and papers kept in the regular course of business.

3 4. The tax base of the original owner is computed in the same manner
4 as a prime contractor under this section.

5 N. For the purposes of this section:

6 1. "Contracting" means engaging in business as a contractor.

7 2. "Contractor" is synonymous with the term "builder" and means any
8 person or organization that undertakes to or offers to undertake to, or
9 purports to have the capacity to undertake to, or submits a bid to, or does
10 personally or by or through others, modify any building, highway, road,
11 railroad, excavation, manufactured building or other structure, project,
12 development or improvement, or to do any part of such a project, including
13 the erection of scaffolding or other structure or works in connection with
14 such a project, and includes subcontractors and specialty contractors. For
15 all purposes of taxation or deduction, this definition shall govern without
16 regard to whether or not such contractor is acting in fulfillment of a
17 contract.

18 3. "Dealership of manufactured buildings" means a dealer who either:

19 (a) Is licensed pursuant to title 41, chapter 16 and who sells
20 manufactured buildings to the final consumer.

21 (b) Supervises, performs or coordinates the excavation and completion
22 of site improvements, setup or moving of a manufactured building including
23 the contracting, if any, with any subcontractor or specialty contractor for
24 the completion of the contract.

25 4. "Manufactured building" means a manufactured home, mobile home or
26 factory-built building, as defined in section 41-2142.

27 5. "Modification" means construction, alteration, repair, addition,
28 subtraction, improvement, movement, wreckage or demolition.

29 6. "Modify" means to construct, alter, repair, add to, subtract from,
30 improve, move, wreck or demolish.

31 7. "Prime contracting" means engaging in business as a prime
32 contractor.

1 8. "Prime contractor" means a contractor who supervises, performs or
2 coordinates the modification of any building, highway, road, railroad,
3 excavation, manufactured building or other structure, project, development or
4 improvement including the contracting, if any, with any subcontractors or
5 specialty contractors and who is responsible for the completion of the
6 contract. Except as provided in subsections E and M of this section, a
7 person who owns real property, who engages one or more contractors to modify
8 that real property and who does not itself modify that real property is not a
9 prime contractor within the meaning of this paragraph regardless of the
10 existence of a contract for sale or the subsequent sale of that real
11 property.

12 9. "Sale of a used manufactured building" does not include a lease of
13 a used manufactured building.

14 Sec. 7. Section 42-5159, Arizona Revised Statutes, is amended to read:
15 42-5159. Exemptions

16 A. The tax levied by this article does not apply to the storage, use
17 or consumption in this state of the following described tangible personal
18 property:

19 1. Tangible personal property sold in this state, the gross receipts
20 from the sale of which are included in the measure of the tax imposed by
21 articles 1 and 2 of this chapter.

22 2. Tangible personal property the sale or use of which has already
23 been subjected to an excise tax at a rate equal to or exceeding the tax
24 imposed by this article under the laws of another state of the United States.
25 If the excise tax imposed by the other state is at a rate less than the tax
26 imposed by this article, the tax imposed by this article is reduced by the
27 amount of the tax already imposed by the other state.

28 3. Tangible personal property, the storage, use or consumption of
29 which the constitution or laws of the United States prohibit this state from
30 taxing or to the extent that the rate or imposition of tax is
31 unconstitutional under the laws of the United States.

1 4. Tangible personal property which directly enters into and becomes
2 an ingredient or component part of any manufactured, fabricated or processed
3 article, substance or commodity for sale in the regular course of business.

4 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
5 which in this state is subject to the tax imposed under title 28, chapter 16,
6 article 1, use fuel which is sold to or used by a person holding a valid
7 single trip use fuel tax permit issued under section 28-5739, aviation fuel,
8 the sales, distribution or use of which in this state is subject to the tax
9 imposed under section 28-8344, and jet fuel, the sales, distribution or use
10 of which in this state is subject to the tax imposed under article 8 of this
11 chapter.

12 6. Tangible personal property brought into this state by an individual
13 who was a nonresident at the time the property was purchased for storage, use
14 or consumption by the individual if the first actual use or consumption of
15 the property was outside this state, unless the property is used in
16 conducting a business in this state.

17 7. Purchases of implants used as growth promotants and injectable
18 medicines, not already exempt under paragraph 16 of this subsection, for
19 livestock and poultry owned by, or in possession of, persons who are engaged
20 in producing livestock, poultry, or livestock or poultry products, or who are
21 engaged in feeding livestock or poultry commercially. For the purposes of
22 this paragraph, "poultry" includes ratites.

23 8. Livestock, poultry, supplies, feed, salts, vitamins and other
24 additives for use or consumption in the businesses of farming, ranching and
25 feeding livestock or poultry, not including fertilizers, herbicides and
26 insecticides. For the purposes of this paragraph, "poultry" includes
27 ratites.

28 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
29 material for use in commercially producing agricultural, horticultural,
30 viticultural or floricultural crops in this state.

1 10. Tangible personal property not exceeding two hundred dollars in any
2 one month purchased by an individual at retail outside the continental limits
3 of the United States for the individual's own personal use and enjoyment.

4 11. Advertising supplements which are intended for sale with newspapers
5 published in this state and which have already been subjected to an excise
6 tax under the laws of another state in the United States which equals or
7 exceeds the tax imposed by this article.

8 12. Materials that are purchased by or for publicly funded libraries
9 including school district libraries, charter school libraries, community
10 college libraries, state university libraries or federal, state, county or
11 municipal libraries for use by the public as follows:

12 (a) Printed or photographic materials, beginning August 7, 1985.

13 (b) Electronic or digital media materials, beginning July 17, 1994.

14 13. Tangible personal property purchased by:

15 (a) A hospital organized and operated exclusively for charitable
16 purposes, no part of the net earnings of which inures to the benefit of any
17 private shareholder or individual.

18 (b) A hospital operated by this state or a political subdivision of
19 this state.

20 (c) A licensed nursing care institution or a licensed residential care
21 institution or a residential care facility operated in conjunction with a
22 licensed nursing care institution or a licensed kidney dialysis center, which
23 provides medical services, nursing services or health related services and is
24 not used or held for profit.

25 (d) A qualifying health care organization, as defined in section
26 42-5001, if the tangible personal property is used by the organization solely
27 to provide health and medical related educational and charitable services.

28 (e) A qualifying health care organization as defined in section
29 42-5001 if the organization is dedicated to providing educational,
30 therapeutic, rehabilitative and family medical education training for blind,
31 visually impaired and multihandicapped children from the time of birth to age
32 twenty-one.

1 (f) A nonprofit charitable organization that has qualified under
2 section 501(c)(3) of the United States internal revenue code and that engages
3 in and uses such property exclusively in programs for mentally or physically
4 handicapped persons if the programs are exclusively for training, job
5 placement, rehabilitation or testing.

6 (g) A person that is subject to tax under article 1 of this chapter by
7 reason of being engaged in business classified under the prime contracting
8 classification under section 42-5075, or a subcontractor working under the
9 control of a prime contractor, if the tangible personal property is any of
10 the following:

11 (i) Incorporated or fabricated by the contractor into a structure,
12 project, development or improvement in fulfillment of a contract.

13 (ii) Used in environmental response or remediation activities under
14 section 42-5075, subsection B, paragraph 6.

15 (iii) Incorporated or fabricated by the person into any lake facility
16 development in a commercial enhancement reuse district under conditions
17 prescribed for the deduction allowed by section 42-5075, subsection B,
18 paragraph 8.

19 (h) A nonprofit charitable organization that has qualified under
20 section 501(c)(3) of the internal revenue code if the property is purchased
21 from the parent or an affiliate organization that is located outside this
22 state.

23 (i) A qualifying community health center as defined in section
24 42-5001.

25 (j) A nonprofit charitable organization that has qualified under
26 section 501(c)(3) of the internal revenue code and that regularly serves
27 meals to the needy and indigent on a continuing basis at no cost.

28 (k) A person engaged in business under the transient lodging
29 classification if the property is a personal hygiene item or articles used by
30 human beings for food, drink or condiment, except alcoholic beverages, which
31 are furnished without additional charge to and intended to be consumed by the
32 transient during the transient's occupancy.

1 (1) For taxable periods beginning from and after June 30, 2001, a
2 nonprofit charitable organization that has qualified under section 501(c)(3)
3 of the internal revenue code and that provides residential apartment housing
4 for low income persons over sixty-two years of age in a facility that
5 qualifies for a federal housing subsidy, if the tangible personal property is
6 used by the organization solely to provide residential apartment housing for
7 low income persons over sixty-two years of age in a facility that qualifies
8 for a federal housing subsidy.

9 (m) A STATE UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
10 REGENTS.

11 14. Commodities, as defined by title 7 United States Code section 2,
12 that are consigned for resale in a warehouse in this state in or from which
13 the commodity is deliverable on a contract for future delivery subject to the
14 rules of a commodity market regulated by the United States commodity futures
15 trading commission.

16 15. Tangible personal property sold by:

17 (a) Any nonprofit organization organized and operated exclusively for
18 charitable purposes and recognized by the United States internal revenue
19 service under section 501(c)(3) of the internal revenue code.

20 (b) A nonprofit organization that is exempt from taxation under
21 section 501(c)(3) or 501(c)(6) of the internal revenue code if the
22 organization is associated with a major league baseball team or a national
23 touring professional golfing association and no part of the organization's
24 net earnings inures to the benefit of any private shareholder or individual.

25 (c) A nonprofit organization that is exempt from taxation under
26 section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the
27 internal revenue code if the organization sponsors or operates a rodeo
28 featuring primarily farm and ranch animals and no part of the organization's
29 net earnings inures to the benefit of any private shareholder or individual.

30 16. Drugs and medical oxygen, including delivery hose, mask or tent,
31 regulator and tank, on the prescription of a member of the medical, dental or
32 veterinarian profession who is licensed by law to administer such substances.

1 17. Prosthetic appliances, as defined in section 23-501, prescribed or
2 recommended by a person who is licensed, registered or otherwise
3 professionally credentialed as a physician, dentist, podiatrist,
4 chiropractor, naturopath, homeopath, nurse or optometrist.

5 18. Prescription eyeglasses and contact lenses.

6 19. Insulin, insulin syringes and glucose test strips.

7 20. Hearing aids as defined in section 36-1901.

8 21. Durable medical equipment which has a centers for medicare and
9 medicaid services common procedure code, is designated reimbursable by
10 medicare, is prescribed by a person who is licensed under title 32, chapter
11 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily
12 used to serve a medical purpose, is generally not useful to a person in the
13 absence of illness or injury and is appropriate for use in the home.

14 22. Food, as provided in and subject to the conditions of article 3 of
15 this chapter and section 42-5074.

16 23. Items purchased with United States department of agriculture food
17 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
18 958) or food instruments issued under section 17 of the child nutrition act
19 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
20 section 1786).

21 24. Food and drink provided without monetary charge by a taxpayer which
22 is subject to section 42-5074 to its employees for their own consumption on
23 the premises during the employees' hours of employment.

24 25. Tangible personal property that is used or consumed in a business
25 subject to section 42-5074 for human food, drink or condiment, whether
26 simple, mixed or compounded.

27 26. Food, drink or condiment and accessory tangible personal property
28 that are acquired for use by or provided to a school district or charter
29 school if they are to be either served or prepared and served to persons for
30 consumption on the premises of a public school in a school district during
31 school hours.

1 27. Lottery tickets or shares purchased pursuant to title 5, chapter 5,
2 article 1.

3 28. Textbooks, sold by a bookstore, that are required by any state
4 university or community college.

5 29. Magazines, other periodicals or other publications produced by this
6 state to encourage tourist travel.

7 30. Paper machine clothing, such as forming fabrics and dryer felts,
8 purchased by a paper manufacturer and directly used or consumed in paper
9 manufacturing.

10 31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
11 purchased by a qualified environmental technology manufacturer, producer or
12 processor as defined in section 41-1514.02 and directly used or consumed in
13 the generation or provision of on-site power or energy solely for
14 environmental technology manufacturing, producing or processing or
15 environmental protection. This paragraph shall apply for fifteen full
16 consecutive calendar or fiscal years from the date the first paper
17 manufacturing machine is placed in service. In the case of an environmental
18 technology manufacturer, producer or processor who does not manufacture
19 paper, the time period shall begin with the date the first manufacturing,
20 processing or production equipment is placed in service.

21 32. Motor vehicles that are removed from inventory by a motor vehicle
22 dealer as defined in section 28-4301 and that are provided to:

23 (a) Charitable or educational institutions that are exempt from
24 taxation under section 501(c)(3) of the internal revenue code.

25 (b) Public educational institutions.

26 (c) State universities or affiliated organizations of a state
27 university if no part of the organization's net earnings inures to the
28 benefit of any private shareholder or individual.

29 33. Natural gas or liquefied petroleum gas used to propel a motor
30 vehicle.

31 34. Machinery, equipment, technology or related supplies that are only
32 useful to assist a person who is physically disabled as defined in section

1 46-191, has a developmental disability as defined in section 36-551 or has a
2 head injury as defined in section 41-3201 to be more independent and
3 functional.

4 35. Liquid, solid or gaseous chemicals used in manufacturing,
5 processing, fabricating, mining, refining, metallurgical operations, research
6 and development and, beginning on January 1, 1999, printing, if using or
7 consuming the chemicals, alone or as part of an integrated system of
8 chemicals, involves direct contact with the materials from which the product
9 is produced for the purpose of causing or permitting a chemical or physical
10 change to occur in the materials as part of the production process. This
11 paragraph does not include chemicals that are used or consumed in activities
12 such as packaging, storage or transportation but does not affect any
13 exemption for such chemicals that is otherwise provided by this section. For
14 the purposes of this paragraph, "printing" means a commercial printing
15 operation and includes job printing, engraving, embossing, copying and
16 bookbinding.

17 36. Food, drink and condiment purchased for consumption within the
18 premises of any prison, jail or other institution under the jurisdiction of
19 the state department of corrections, the department of public safety, the
20 department of juvenile corrections or a county sheriff.

21 37. A motor vehicle and any repair and replacement parts and tangible
22 personal property becoming a part of such motor vehicle sold to a motor
23 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
24 and who is engaged in the business of leasing or renting such property.

25 38. Tangible personal property which is or directly enters into and
26 becomes an ingredient or component part of cards used as prescription plan
27 identification cards.

28 39. Overhead materials or other tangible personal property that is used
29 in performing a contract between the United States government and a
30 manufacturer, modifier, assembler or repairer, including property used in
31 performing a subcontract with a government contractor who is a manufacturer,
32 modifier, assembler or repairer, to which title passes to the government

1 under the terms of the contract or subcontract. For the purposes of this
2 paragraph:

3 (a) "Overhead materials" means tangible personal property, the gross
4 proceeds of sales or gross income derived from which would otherwise be
5 included in the retail classification, and which are used or consumed in the
6 performance of a contract, the cost of which is charged to an overhead
7 expense account and allocated to various contracts based upon generally
8 accepted accounting principles and consistent with government contract
9 accounting standards.

10 (b) "Subcontract" means an agreement between a contractor and any
11 person who is not an employee of the contractor for furnishing of supplies or
12 services that, in whole or in part, are necessary to the performance of one
13 or more government contracts, or under which any portion of the contractor's
14 obligation under one or more government contracts is performed, undertaken or
15 assumed, and that includes provisions causing title to overhead materials or
16 other tangible personal property used in the performance of the subcontract
17 to pass to the government or that includes provisions incorporating such
18 title passing clauses in a government contract into the subcontract.

19 40. Through December 31, 1994, tangible personal property sold pursuant
20 to a personal property liquidation transaction, as defined in section
21 42-5061. From and after December 31, 1994, tangible personal property sold
22 pursuant to a personal property liquidation transaction, as defined in
23 section 42-5061, if the gross proceeds of the sales were included in the
24 measure of the tax imposed by article 1 of this chapter or if the personal
25 property liquidation was a casual activity or transaction.

26 41. Wireless telecommunications equipment that is held for sale or
27 transfer to a customer as an inducement to enter into or continue a contract
28 for telecommunications services that are taxable under section 42-5064.

29 42. Alternative fuel, as defined in section 1-215, purchased by a used
30 oil fuel burner who has received a permit to burn used oil or used oil fuel
31 under section 49-426 or 49-480.

1 43. Tangible personal property purchased by a commercial airline and
2 consisting of food, beverages and condiments and accessories used for serving
3 the food and beverages, if those items are to be provided without additional
4 charge to passengers for consumption in flight. For the purposes of this
5 paragraph, "commercial airline" means a person holding a federal certificate
6 of public convenience and necessity or foreign air carrier permit for air
7 transportation to transport persons, property or United States mail in
8 intrastate, interstate or foreign commerce.

9 44. Alternative fuel vehicles if the vehicle was manufactured as a
10 diesel fuel vehicle and converted to operate on alternative fuel and
11 equipment that is installed in a conventional diesel fuel motor vehicle to
12 convert the vehicle to operate on an alternative fuel, as defined in section
13 1-215.

14 45. Gas diverted from a pipeline, by a person engaged in the business
15 of:

16 (a) Operating a natural or artificial gas pipeline, and used or
17 consumed for the sole purpose of fueling compressor equipment that
18 pressurizes the pipeline.

19 (b) Converting natural gas into liquefied natural gas, and used or
20 consumed for the sole purpose of fueling compressor equipment used in the
21 conversion process.

22 46. Tangible personal property that is excluded, exempt or deductible
23 from transaction privilege tax pursuant to section 42-5063.

24 47. Tangible personal property purchased to be incorporated or
25 installed as part of environmental response or remediation activities under
26 section 42-5075, subsection B, paragraph 6.

27 48. Tangible personal property sold by a nonprofit organization that is
28 exempt from taxation under section 501(c)(6) of the internal revenue code if
29 the organization produces, organizes or promotes cultural or civic related
30 festivals or events and no part of the organization's net earnings inures to
31 the benefit of any private shareholder or individual.

1 49. Prepared food, drink or condiment donated by a restaurant as
2 classified in section 42-5074, subsection A to a nonprofit charitable
3 organization that has qualified under section 501(c)(3) of the internal
4 revenue code and that regularly serves meals to the needy and indigent on a
5 continuing basis at no cost.

6 B. In addition to the exemptions allowed by subsection A of this
7 section, the following categories of tangible personal property are also
8 exempt:

9 1. Machinery, or equipment, used directly in manufacturing,
10 processing, fabricating, job printing, refining or metallurgical operations.
11 The terms "manufacturing", "processing", "fabricating", "job printing",
12 "refining" and "metallurgical" as used in this paragraph refer to and include
13 those operations commonly understood within their ordinary meaning.
14 "Metallurgical operations" includes leaching, milling, precipitating,
15 smelting and refining.

16 2. Machinery, or equipment, used directly in the process of extracting
17 ores or minerals from the earth for commercial purposes, including equipment
18 required to prepare the materials for extraction and handling, loading or
19 transporting such extracted material to the surface. "Mining" includes
20 underground, surface and open pit operations for extracting ores and
21 minerals.

22 3. Tangible personal property sold to persons engaged in business
23 classified under the telecommunications classification under section 42-5064
24 and consisting of central office switching equipment, switchboards, private
25 branch exchange equipment, microwave radio equipment and carrier equipment
26 including optical fiber, coaxial cable and other transmission media which are
27 components of carrier systems.

28 4. Machinery, equipment or transmission lines used directly in
29 producing or transmitting electrical power, but not including distribution.
30 Transformers and control equipment used at transmission substation sites
31 constitute equipment used in producing or transmitting electrical power.

1 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
2 to be used as breeding or production stock, including sales of breedings or
3 ownership shares in such animals used for breeding or production.

4 6. Pipes or valves four inches in diameter or larger used to transport
5 oil, natural gas, artificial gas, water or coal slurry, including compressor
6 units, regulators, machinery and equipment, fittings, seals and any other
7 part that is used in operating the pipes or valves.

8 7. Aircraft, navigational and communication instruments and other
9 accessories and related equipment sold to:

10 (a) A person holding a federal certificate of public convenience and
11 necessity, a supplemental air carrier certificate under federal aviation
12 regulations (14 Code of Federal Regulations part 121) or a foreign air
13 carrier permit for air transportation for use as or in conjunction with or
14 becoming a part of aircraft to be used to transport persons, property or
15 United States mail in intrastate, interstate or foreign commerce.

16 (b) Any foreign government for use by such government outside of this
17 state, or sold to persons who are not residents of this state and who will
18 not use such property in this state other than in removing such property from
19 this state.

20 8. Machinery, tools, equipment and related supplies used or consumed
21 directly in repairing, remodeling or maintaining aircraft, aircraft engines
22 or aircraft component parts by or on behalf of a certificated or licensed
23 carrier of persons or property.

24 9. Rolling stock, rails, ties and signal control equipment used
25 directly to transport persons or property.

26 10. Machinery or equipment used directly to drill for oil or gas or
27 used directly in the process of extracting oil or gas from the earth for
28 commercial purposes.

29 11. Buses or other urban mass transit vehicles which are used directly
30 to transport persons or property for hire or pursuant to a governmentally
31 adopted and controlled urban mass transportation program and which are sold
32 to bus companies holding a federal certificate of convenience and necessity

1 or operated by any city, town or other governmental entity or by any person
2 contracting with such governmental entity as part of a governmentally adopted
3 and controlled program to provide urban mass transportation.

4 12. Groundwater measuring devices required under section 45-604.

5 13. New machinery and equipment consisting of tractors, tractor-drawn
6 implements, self-powered implements, machinery and equipment necessary for
7 extracting milk, and machinery and equipment necessary for cooling milk and
8 livestock, and drip irrigation lines not already exempt under paragraph 6 of
9 this subsection and that are used for commercial production of agricultural,
10 horticultural, viticultural and floricultural crops and products in this
11 state. For the purposes of this paragraph:

12 (a) "New machinery and equipment" means machinery or equipment which
13 has never been sold at retail except pursuant to leases or rentals which do
14 not total two years or more.

15 (b) "Self-powered implements" includes machinery and equipment that
16 are electric-powered.

17 14. Machinery or equipment used in research and development. For the
18 purposes of this paragraph, "research and development" means basic and
19 applied research in the sciences and engineering, and designing, developing
20 or testing prototypes, processes or new products, including research and
21 development of computer software that is embedded in or an integral part of
22 the prototype or new product or that is required for machinery or equipment
23 otherwise exempt under this section to function effectively. Research and
24 development do not include manufacturing quality control, routine consumer
25 product testing, market research, sales promotion, sales service, research in
26 social sciences or psychology, computer software research that is not
27 included in the definition of research and development, or other
28 nontechnological activities or technical services.

29 15. Machinery and equipment that are purchased by or on behalf of the
30 owners of a soundstage complex and primarily used for motion picture,
31 multimedia or interactive video production in the complex. This paragraph
32 applies only if the initial construction of the soundstage complex begins

1 after June 30, 1996 and before January 1, 2002 and the machinery and
2 equipment are purchased before the expiration of five years after the start
3 of initial construction. For the purposes of this paragraph:

4 (a) "Motion picture, multimedia or interactive video production"
5 includes products for theatrical and television release, educational
6 presentations, electronic retailing, documentaries, music videos, industrial
7 films, CD-ROM, video game production, commercial advertising and television
8 episode production and other genres that are introduced through developing
9 technology.

10 (b) "Soundstage complex" means a facility of multiple stages including
11 production offices, construction shops and related areas, prop and costume
12 shops, storage areas, parking for production vehicles and areas that are
13 leased to businesses that complement the production needs and orientation of
14 the overall facility.

15 16. Tangible personal property that is used by either of the following
16 to receive, store, convert, produce, generate, decode, encode, control or
17 transmit telecommunications information:

18 (a) Any direct broadcast satellite television or data transmission
19 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
20 100.

21 (b) Any satellite television or data transmission facility, if both of
22 the following conditions are met:

23 (i) Over two-thirds of the transmissions, measured in megabytes,
24 transmitted by the facility during the test period were transmitted to or on
25 behalf of one or more direct broadcast satellite television or data
26 transmission services that operate pursuant to 47 Code of Federal Regulations
27 parts 25 and 100.

28 (ii) Over two-thirds of the transmissions, measured in megabytes,
29 transmitted by or on behalf of those direct broadcast television or data
30 transmission services during the test period were transmitted by the facility
31 to or on behalf of those services.

1 For the purposes of subdivision (b) of this paragraph, "test period" means
2 the three hundred sixty-five day period beginning on the later of the date on
3 which the tangible personal property is purchased or the date on which the
4 direct broadcast satellite television or data transmission service first
5 transmits information to its customers.

6 17. Clean rooms that are used for manufacturing, processing,
7 fabrication or research and development, as defined in paragraph 14 of this
8 subsection, of semiconductor products. For the purposes of this paragraph,
9 "clean room" means all property that comprises or creates an environment
10 where humidity, temperature, particulate matter and contamination are
11 precisely controlled within specified parameters, without regard to whether
12 the property is actually contained within that environment or whether any of
13 the property is affixed to or incorporated into real property. Clean room:

14 (a) Includes the integrated systems, fixtures, piping, movable
15 partitions, lighting and all property that is necessary or adapted to reduce
16 contamination or to control airflow, temperature, humidity, chemical purity
17 or other environmental conditions or manufacturing tolerances, as well as the
18 production machinery and equipment operating in conjunction with the clean
19 room environment.

20 (b) Does not include the building or other permanent, nonremovable
21 component of the building that houses the clean room environment.

22 18. Machinery and equipment that are used directly in the feeding of
23 poultry, the environmental control of housing for poultry, the movement of
24 eggs within a production and packaging facility or the sorting or cooling of
25 eggs. This exemption does not apply to vehicles used for transporting eggs.

26 19. Machinery or equipment, including related structural components,
27 that is employed in connection with manufacturing, processing, fabricating,
28 job printing, refining, mining, natural gas pipelines, metallurgical
29 operations, telecommunications, producing or transmitting electricity or
30 research and development and that is used directly to meet or exceed rules or
31 regulations adopted by the federal energy regulatory commission, the United
32 States environmental protection agency, the United States nuclear regulatory

1 commission, the Arizona department of environmental quality or a political
2 subdivision of this state to prevent, monitor, control or reduce land, water
3 or air pollution.

4 20. Machinery and equipment that are used in the commercial production
5 of livestock, livestock products or agricultural, horticultural, viticultural
6 or floricultural crops or products in this state and that are used directly
7 and primarily to prevent, monitor, control or reduce air, water or land
8 pollution.

9 21. Machinery or equipment that enables a television station to
10 originate and broadcast or to receive and broadcast digital television
11 signals and that was purchased to facilitate compliance with the
12 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
13 Code section 336) and the federal communications commission order issued
14 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
15 not exempt any of the following:

16 (a) Repair or replacement parts purchased for the machinery or
17 equipment described in this paragraph.

18 (b) Machinery or equipment purchased to replace machinery or equipment
19 for which an exemption was previously claimed and taken under this paragraph.

20 (c) Any machinery or equipment purchased after the television station
21 has ceased analog broadcasting, or purchased after November 1, 2009,
22 whichever occurs first.

23 22. Qualifying equipment that is purchased from and after June 30, 2004
24 through June 30, 2014 by a qualified business under section 41-1516 for
25 harvesting or the initial processing of qualifying forest products removed
26 from qualifying projects as defined in section 41-1516. To qualify for this
27 exemption, the qualified business must obtain and present its certification
28 from the department of commerce at the time of purchase.

29 23. Machinery, equipment and other tangible personal property used
30 directly in motion picture production by a motion picture production company.
31 To qualify for this exemption, at the time of purchase, the motion picture
32 production company must present to the retailer its certificate that is

1 issued pursuant to section 42-5009, subsection H and that establishes its
2 qualification for the exemption.

3 C. The exemptions provided by subsection B of this section do not
4 include:

5 1. Expendable materials. For the purposes of this paragraph,
6 expendable materials do not include any of the categories of tangible
7 personal property specified in subsection B of this section regardless of the
8 cost or useful life of that property.

9 2. Janitorial equipment and hand tools.

10 3. Office equipment, furniture and supplies.

11 4. Tangible personal property used in selling or distributing
12 activities, other than the telecommunications transmissions described in
13 subsection B, paragraph 16 of this section.

14 5. Motor vehicles required to be licensed by this state, except buses
15 or other urban mass transit vehicles specifically exempted pursuant to
16 subsection B, paragraph 11 of this section, without regard to the use of such
17 motor vehicles.

18 6. Shops, buildings, docks, depots and all other materials of whatever
19 kind or character not specifically included as exempt.

20 7. Motors and pumps used in drip irrigation systems.

21 D. The following shall be deducted in computing the purchase price of
22 electricity by a retail electric customer from a utility business:

23 1. Revenues received from sales of ancillary services, electric
24 distribution services, electric generation services, electric transmission
25 services and other services related to providing electricity to a retail
26 electric customer who is located outside this state for use outside this
27 state if the electricity is delivered to a point of sale outside this state.

28 2. Revenues received from providing electricity, including ancillary
29 services, electric distribution services, electric generation services,
30 electric transmission services and other services related to providing
31 electricity with respect to which the transaction privilege tax imposed under
32 section 42-5063 has been paid.

1 E. The tax levied by this article does not apply to:

2 1. The storage, use or consumption in Arizona of machinery, equipment,
3 materials or other tangible personal property if used directly and
4 predominantly to construct a qualified environmental technology
5 manufacturing, producing or processing facility, as described in section
6 41-1514.02. This paragraph applies for ten full consecutive calendar or
7 fiscal years after the start of initial construction.

8 2. The purchase of electricity by a qualified environmental technology
9 manufacturer, producer or processor as defined in section 41-1514.02 that is
10 used directly in environmental technology manufacturing, producing or
11 processing. This paragraph shall apply for fifteen full consecutive calendar
12 or fiscal years from the date the first paper manufacturing machine is placed
13 in service. In the case of an environmental technology manufacturer,
14 producer or processor who does not manufacture paper, the time period shall
15 begin with the date the first manufacturing, processing or production
16 equipment is placed in service.

17 F. The following shall be deducted in computing the purchase price of
18 electricity by a retail electric customer from a utility business:

19 1. Fees charged by a municipally owned utility to persons constructing
20 residential, commercial or industrial developments or connecting residential,
21 commercial or industrial developments to a municipal utility system or
22 systems if the fees are segregated and used only for capital expansion,
23 system enlargement or debt service of the utility system or systems.

24 2. Reimbursement or contribution compensation to any person or persons
25 owning a utility system for property and equipment installed to provide
26 utility access to, on or across the land of an actual utility consumer if the
27 property and equipment become the property of the utility. This deduction
28 shall not exceed the value of such property and equipment.

29 G. For the purposes of subsection B of this section:

30 1. "Aircraft" includes:

1 (a) An airplane flight simulator that is approved by the federal
2 aviation administration for use as a phase II or higher flight simulator
3 under appendix H, 14 Code of Federal Regulations part 121.

4 (b) Tangible personal property that is permanently affixed or attached
5 as a component part of an aircraft that is owned or operated by a
6 certificated or licensed carrier of persons or property.

7 2. "Other accessories and related equipment" includes aircraft
8 accessories and equipment such as ground service equipment that physically
9 contact aircraft at some point during the overall carrier operation.

10 H. For the purposes of subsection D of this section, "ancillary
11 services", "electric distribution service", "electric generation service",
12 "electric transmission service" and "other services" have the same meanings
13 prescribed in section 42-5063."

14 Amend title to conform

and, as so amended, it do pass

WARDE V. NICHOLS
Chairman

2261-se-hspr
2/18/08
H:jmb